Resolution regarding Aims and Objects

[*After the end of the second world war in 1945, the question of India's freedom assumed priority. The British Government sent three-men delegation to India to suggest the ways and means for the smooth transfer of power. This delegation, called Cabinet Mission, announced on 16 March 1946 its proposals in which, it was suggested that a Constituent Assembly be set up to frame a Constitution for the future governance of India.*

Accordingly elections to the Constituent Assembly were held in which members were elected by the Provincial Legislative Assemblies. Dr. Ambedkar, having failed to get elected from Bombay due to Congress opposition, managed to enter the Constituent Assembly through the Bengal Assembly with the support of Jogendranath Mandal and other Scheduled Caste members.

The Constituent Assembly started its work of framing free India's Constitution on 9th December 1946. In all 296 members were entitled to take part in the inaugural session. But only 207 attended, the absentees were mainly the Muslim League members who had boycotted the Constituent Assembly.]

The first meeting of the Constituent Assembly of India commenced in the Constitution Hall, New Delhi on Monday, the 9th December 1946, at Eleven of the Clock.

Acharya J. B. Kripalani requested Dr. Sachchidanand Sinha to take the chair as temporary Chairman. The Chairman gave an inaugural address to the House. This was followed by nomination of Shri Frank Anthony as the Deputy Chairman.

The members then presented the credentials and signed their names in the register. Dr. B. R. Ambedkar signed as a member from Bengal.

The Assembly passed the rules for the election of the Chairman of the Constituent Assembly on 10th December 1946. The Assembly thereafter elected Dr. Rajendra Prasad as permanent Chairman of the Assembly on 11th December 1946.

On 13th December 1946, the Hon'ble Pandit Jawaharlal Nehru moved the resolution regarding Aims and Objects as under:—

"*(1) This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution;

(2) WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and

(3) WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the Law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom ; and

(4) WHEREIN all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people ; and

(5) WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law ; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality ; and

(6) WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes ; and

(7) WHEREBY shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to justice and the law of civilised nations, and

(8) This ancient land attains its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind."

[*This was followed by speeches by Pandit Nehru, Purushottam Das Tandon and the Chairman, Dr. Rajendra Prasad. The Assembly then adjourned till 16th December 1946.*—Ed]

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[Dr. M. R. Jayakar, moved his amendment to the above resolution on 16th December 1946.—Ed.]

†The Right Hon'ble Dr. M. R. Jayakar (Bombay General)**:** Well, I will read the amendment. I wanted to save your time by a few minutes. This is the amendment:

"This Assembly declares its firm and solemn resolve that the Constitution to be prepared by this Assembly for the future governance of India shall be for a

*Constituent Assembly Debates (Hereinafter called CAD.), Vol 1, 13th December 1946, p. 59.

†CAD, Vol. I, 16th December 1946, p. 73.

free and democratic Sovereign State ; but with a view to securing, in the shaping of such a constitution, the co-operation of the Muslim League and the Indian States, and thereby intensifying the firmness of this resolve, this Assembly postpones the further consideration of this question to a later date, to enable the representatives of these two bodies to participate, if they so choose, in the deliberations of this Assembly."

In substance, my amendment means that the further consideration of this Resolution should be postponed to a later stage,—the stage of Union constitution-making at which, I take it, the Indian States and the Muslim League are expected to be present……..

[*Dr. M. R. Jayakar objected to the timing of the resolution. He moved an amendment, seeking postponement of the passing of the resolution, as he wanted the Muslim League to join the task of laying down the fundamentals of the Constitution. This resolution created a tense atmosphere in the House. Amidst this tense situation Dr. Ambedkar was invited by the President Dr. Rajendra Prasad unexpectedly to have his say on 17th December 1946. When Dr. Ambedkar started, the House was all attention.*

Dr. Dhananjay Keer writes, " Everybody thought that Dr. Ambedkar by playing such dangerous role would go under with the mover of the amendment to rise against the will and the objections of the Congress bosses, who were the nation's most powerful leaders, was to meet one's Waterloo. The Congress members were ready with their hands raised to cripple their avowed enemy and throw him down". This historic speech changed the course of Dr. Ambedkar's political career. The speech drew the longest and the most vociferous applause. As Mr. N. V. Gadgil, an eye-witness to this event observed "His speech was so statesmanlike, so devoid of bitterness and so earnestly challenging that the whole of Assembly listened to it in rapt silence. The speech was greeted with tremendous ovation and he was smothered with congratulations in the lobby". The speech had its ultimate effect and the Constituent Assembly postponed the considertion of the objective resolution till the next session. The said speech of Dr. Ambedkar is as under.—Ed.]

***Mr. Chairman :** Dr. Ambedkar.

Dr. B. R. Ambedkar : (Bengal : General) : Mr. Chairman, I am indeed very grateful to you for having called me to speak on the Resolution. I must however confess that your invitation has come to me as a surprise. I thought that as there were some 20 or 22 people ahead of me, my turn, if it did come at all, would come tomorrow.

*CAD, Vol. I, 17th December 1946, pp. 99-103.

I would have preferred that as today I have come without any preparation whatsoever. I would have like to prepare myself as I had intended to make a full statement on an occasion of this sort. Besides you have fixed a time limit of 10 minutes. Placed under these limitations, I don't know how I could do justice to the Resolution before us. I shall however do my best to condense in as few words as possible what I think about the matter.

Mr. Chairman, the Resolution in the light of the discussion that has gone on since yesterday, obviously divides itself into two parts, one part which is controversial and another part which is non-controversial. The part which is non-controversial is the part which comprises paragraphs (5) to (7) of this Resolution. These paragraphs set out the objectives of the future constitution of this country. I must confess that, coming as the Resolution does from Pandit Jawaharlal Nehru who is reputed to be a Socialist, this Resolution, although non-controversial, is to my mind very disappointing. I should have expected him to go much further than he has done in that part of the Resolution. As a student of history, I should have preferred this part of the Resolution hot being embodied in it at all. When one reads that part of the Resolution, it reminds one of the Declaration of the Rights of Man which was pronounced by the French Constituent Assembly. I think I am right in suggesting that, after the lapse of practically 450 years, the Declaration of the Rights of Man and the principles which are embodied in it has become part and parcel of our mental makeup. I say they have become not only the part and parcel of the mental make-up of modern man in every civilised part of the world, but also in our own country which is so orthodox, so archaic in its thought and its social structure, hardly anyone can be found to deny its validity. To repeat it now as the Resolution does is, to say the least, pure pedantry. These principles have become the silent immaculate premise of our outlook. It is therefore unnecessary to proclaim as forming a part of our creed. The Resolution suffers from certain other lacuna. I find that this part of the Resolution, although it enunciates certain rights, does not speak of remedies. All of us are aware of the fact that rights are nothing unless remedies are provided whereby people can seek to obtain redress when rights are invaded. I find a complete absence of remedies. Even the usual formula that no man's life, liberty and property shall be taken without the due process of law, finds no place in the Resolution. These fundamental rights set out are made subject to law and morality. Obviously what is law, what is morality will be determined by the Executive of the day and when the Executive may take one view another Executive may take another view and we do not know what exactly

would be the position with regard to fundamental rights, if this matter is left to the Executive of the day. Sir, there are here certain provisions which speak of justice, economical, social and political. If this Resolution has a reality behind it and a sincerity, of which I have not the least doubt, coming as it does from the Mover of the Resolution, I should have expected some provision whereby it would have been possible for the State to make economic, social and political justice a reality and I should have from that point of view expected the Resolution to state in most explicit terms that in order that there may be social and economic justice in the country, that there would be nationalisation of industry and nationalisation of land, I do not understand how it could be possible for any future Government which believes in doing justice socially, economically and politically, unless its economy is a socialistic economy. Therefore, personally, although I have no objection to the enunciation of these propositions, the Resolution is, to my mind, somewhat disappointing. I am however prepared to leave this subject where it is with the observations I have made.

Now I come to the first part of the Resolution, which includes the first four paragraphs. As I said from the debate that has gone on in the House, this has become a matter of controversy. The controversy seems to be centred on the use of that word 'Republic'. It is centred on the sentence occurring in paragraph 4 "the sovereignty is derived from the people". Thereby it arises from the point made by my friend Dr. Jayakar yesterday that in the absence of the Muslim League it would not be proper for this Assembly to proceed to deal with this Resolution. Now, Sir, I have got not the slightest doubt in my mind as to the future evolution and the ultimate shape of the social, political and economic structure of this great country. I know to-day we are divided politically, socially and economically. We are a group of warring camps and I may go even to the extent of confessing that I am probably one of the leaders of such a camp. But, Sir, with all this, I am quite convinced that given time and circumstances nothing in the world will prevent this country from becoming one. (*Applause*): With all our castes and creeds, I have not the slightest hesitation that we shall in some form be a united people (*Cheers*). I have no hesitation in saying that notwithstanding the agitation of the Muslim League for the partition of India some day enough light would dawn upon the Muslims themselves and they too will begin to think that a United India is better even for them. (*Loud cheers and applause*).

So far as the ultimate goal is concerned, I think none of us need have any apprehensions. None of us need have any doubt. Our difficulty is not about the ultimate future. Our difficulty is how to make the heterogeneous mass that we have to-day take a decision in common and march on the way which leads us to unity. Our difficulty is not with regard to the ultimate, our difficulty is with regard to the beginning. Mr. Chairman, therefore, I should have thought that in order to make us willing friends, in order to induce every party, every section in this country to take on to road it would be an act of greatest statesmanship for the majority party even to make a concession to the prejudices of people who are not prepared to march together and it is for that, that I propose to make this appeal. Let us leave aside slogans, let us leave aside words which frighten people. Let us even make a concession to the prejudices of our opponents, bring them in, so that they may willingly join with us on marching upon that road, which as I said, if we walk long enough, must necessarily lead us to unity. If I, therefore, from this place support Dr. Jayakar's amendment, it is because I want all of us to realise that whether we are right or wrong, whether the position that we take is in consonance with our legal rights, whether that agrees with the Statement of May the 16th or December 6th, leave all that aside. This is too big a question to be treated as a matter of legal rights. It is not a legal question at all. We should leave aside all legal considerations and make some attempt, whereby those who are not prepared to come, will come. Let us make it possible for them to come, that is my appeal.

In the course of the debate that took place, there were two questions which were raised, which struck me so well that I took the trouble of taking them down on a piece of paper. The one question was, I think, by my friend, the Prime Minister of Bihar who spoke yesterday in this Assembly. He said, how can this Resolution prevent the League from coming into the Constituent Assembly? Today my friend. Dr. Syama Prasad Mookherjee, asked another question. Is this Resolution inconsistent with the Cabinet Mission's Proposal? Sir, I think they are very important questions and they ought to be answered and answered categorically. I do maintain that this Resolution whether it is intended to bring about the result or not, whether it is a result of cold calculation or whether it is a mere matter of accident is bound to have the result of keeping the Muslim League out. In this connection I should like to invite your attention to Paragraph 3 of the Resolution, which I think

is very significant and very important. Paragraph 3 envisages the future constitution of India. I do not know what is the intention of the mover of the Resolution. But I take it that after this Resolution is passed, it will act as a sort of a directive to the Constituent Assembly to frame a constitution in terms of para. 3 of the Resolution. What does paragraph 3 say ? Paragraph 3 says that in this country there shall be two different sets of polity, one at the bottom, autonomous Provinces or the States or such other areas as care to join a United India. These autonomous units will have full power. They will have also residuary powers. At the top, over the Provincial units, there will be a Union Government, having certain subjects for legislation, for execution and for administration. As I read this part of the Resolution, I do not find any reference to the idea of grouping, an intermediate structure between the Union on the one hand and the provinces on the other. Reading this para, in the light of the Cabinet Mission's Statement or reading it even in the light of the Resolution passed by the Congress at its Wardha session, I must confess that I am a great deal surprised at the absence of any reference to the idea of grouping of the provinces. So far as I am personally concerned, I do not like the idea of grouping (*hear, hear*) I like a strong united Centre, (*hear, hear*) much stronger than the Centre we had created under the Government of India Act of 1935. But, Sir, these opinions, these wishes have no bearing on the situation at all. We have travelled a long road. The Congress Party, for reasons best known to itself consented, if I may use that expression, to the dismantling of a strong Centre which had been created in this country as a result of 150 years of administration and which I must say, was to me a matter of great admiration and respect and refuge. But having given up that position, having said that we do not want a strong centre, and having accepted that there must be or should be an intermediate polity, a sub-federation between the Union Government and the Provinces I would like to know why there is no reference in para. 3 to the idea of grouping. I quite understand that the Congress Party, the Muslim League and His Majesty's Government are not *ad idem* on the interpretation of the clause relating to grouping. But I always thought that,—I am prepared to stand corrected if it is shown that I am wrong,—at least it was agreed by the Congress Party that if the Provinces which are placed within different groups consent to form a Union or Sub-federation, the Congress would have no objection to that proposal. I believe I am correct in interpreting the mind of the

Congress Party. The question I ask is this. Why did not the Mover of this Resolution make reference to the idea of a Union of Provinces or grouping of Provinces on the terms on which he and his party was prepared to accept it ? Why is the idea of Union completely effaced from this Resolution ? I find no answer. None whatever. I therefore say in answer to the two questions which have been posed here in this Assembly by the Prime Minister of Bihar and Dr. Syama Prasad Mookherjee as to how this Resolution is inconsistent with the Statement of May 16th or how this Resolution is going to prevent the Muslim League from entering this Constituent Assembly, that here is para. 3 which the Muslim League is bound to take advantage of and justify its continued absentation. Sir, my friend Dr. Jayakar, yesterday, in arguing his case for postponing a decision on this issue put his case, if I may say so, without offence to him, somewhat in a legalistic manner. The basis of his argument was, have you the right to do so ? He read out certain portions from the Statement of the Cabinet Mission which related to the procedural part of the Constituent Assembly and his contention was that the procedure that this Constituent Assembly was adopting in deciding upon this Resolution straightaway was inconsistent with the procedure that was laid down in that Paper. Sir, I like to put the matter in a somewhat different way. The way I like to put it is this, I am not asking you to consider whether you have the right to pass this Resolution straightaway or not. It may be that you have the right to do so. The question I am asking is this. Is it prudent for you to do so ? Is it wise for you to do so ? Power is one thing ; wisdom is quite a different thing and I want this House to consider this matter from the point of view, namely, whether it would be wise, whether it would be statesmanlike, whether it would be prudent to do so at this stage. The answer that I give is that it would not be prudent, it would not be wise. I suggest that another attempt may be made to bring about a solution of the dispute between the Congress and the Muslim League. This subject is so vital, so important that I am sure it could never be decided on the mere basis of dignity of one party or the dignity of another party. When deciding the destinies of nations, dignities of people, dignities of leaders and dignities of parties ought to count for nothing. The destiny of the country ought to count for everything. It is because I feel that it would in the interest not only of this Constituent Assembly so that it may function as one whole, so that it may have the reaction of the Muslim League before it proceeds to decision that

I support Dr. Jayakar's amendment—we must also consider what is going to happen with regard to the future, if we act precipitately. I do not know what plans the Congress Party, which holds this House in its possession, has in its mind ? I have no power of divination to know what they are thinking about. What are their tactics, what is their strategy, I do not know. But applying my mind as an outsider to the issue that has arisen, it seems to me there are only three ways by which the future will be decided. Either there shall have to be surrender by the one party to the wishes of the other—that is one way. The other way would be what I call a negotiated peace and the third way would be open war. Sir, I have been hearing from certain members of the Constituent Assembly that they are prepared to go to war. I must confess that I am appalled at the idea that anybody in this country should think of solving the political problems of this country by the method of war. I do not know how many people in this country support that idea. A good many perhaps do and the reason why I think they do, is because most of them, at any rate a great many of them, believe that the war that they are thinking of, would be a war on the British. Well, Sir, if the war that is contemplated, that is in the minds of people, can be localised, circumscribed, so that it will not be more than a war on the British, I probably may not have much objection to that sort of strategy. But will it be a war on the British only ? I have no hesitation and I do want to place before this House in the clearest terms possible that if war comes in this country and if that war has any relation to the issue with which we are confronted to-day, it will not be a war on the British. It will be a war on the Muslims. It will be a war on the Muslims or which is probably worse, it will be a war on a combination of the British and the Muslims. I cannot see how this contemplated war be of the sort different from what I fear it will be. Sir, I like to read to the House a passage from Burke's great speech on Conciliation with America. I believe this may have some effect upon the temper of this House. The British people as you know were trying to conquer the rebellious colonies of the United States, and bring them under their subjection contrary to their wishes. In repelling this idea of conquering the colonies this is what Burke said:—

> "First, Sir permit me to observe, that the use of force alone is but temporary. It may subdue for a moment; but it does not remove the necessity of subduing again ; and a nation is not governed which is perpetually to be conquered.
> "My next objection is its uncertainty. Terror is not always the effect of force and an armament is not a victory. If you do not succeed, you are without resource for, conciliation failing, force remains ; but, force failing, no further

hope of reconciliation is left. Power and authority are sometimes bought by kindness; but they can never be begged as alms by an impoverished and defeated violence……

"A further objection to force is, that you impair the object by your very endeavours to preserve it. The thing you fought for is not the thing which you recover ; but depreciated, sunk, wasted and consumed in the contest".

These are weighty words which it would be perilous to ignore. If there is anybody who has in his mind the project of solving the Hindu-Muslim problem by force, which is another name of solving it by war, in order that the Muslims may be subjugated and made to surrender to the Constitution that might be prepared without their consent, this country would be involved in perpetually conquering them. The conquest would not be once and for ever. I do not wish to take more time than I have taken and I will conclude by again referring to Burke. Burke has said somewhere that it is easy to give power, it is difficult to give wisdom. Let us prove by our conduct that if this Assembly has arrogated to itself sovereign powers it is prepared to exercise them with wisdom. That is the only way by which we can carry with us all sections of the country. There is no other way that can lead us to unity. Let us have no doubt on that point.

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Interim Report on Fundamental Rights

***The Hon'ble Pandit Hirday Nath Kunzru :** ... That Government is faced with an extraordinary difficult problem and clause 8(*e*) shows a strange disregard of the existing state of things there. I think, Sir, that this right can be conferred only under certain conditions which have to be clearly defined.

Dr. B. R. Ambedkar (Bengal : General)**:** I do not wish to interrupt the speaker; but in dealing with clause 8(*e*)†, he is rather giving a wrong impression of the whole clause.

Dr. B. Pattabhi Sitaramayya (Madras : General)**:** Instead of giving illustrations to make his points clear, he is going into a discussion of the merits.

The Hon'ble Pandit Hirday Nath Kunzru : As a parliamentarian, Sir, you understand what I am doing. As regards Dr. Ambedkar's objection, I may say—and I am sure you will bear me out,—I read out the entire clause including the proviso.

Mr. President : I would request the Member to confine himself to the point which he wants to illustrate and not go into the merits of the proposal.

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*CAD, Vol. Ill, 29th April 1947, p. 402.

† Clause (e) read as under ;—"*Provision may be made by law to impose such reasonable restrictions as may be necessary in the public interest including the protection of minority groups and tribes.*".—Ed.